

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL A. CLARKE,)	CASE NO. 4:05CV1977
)	
Plaintiff,)	
)	
v.)	JUDGE PETER C. ECONOMUS
)	
UNITED STATES OF AMERICA, et al.,)	ORDER
)	
Defendant.)	

This matter is before the Court upon the report and recommendation of Magistrate Judge George J. Limbert. (Dkt. # 46).

On August 11, 2005, Plaintiff, Michael A. Clarke, ("Plaintiff") filed a *pro se* Complaint alleging, *inter alia*, claims pursuant to Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971) ("Bivens") and violations of the Federal Tort Claims Act, Title 28 U.S.C. § 1346(b) and § 2671, ("FTCA"). He contends that physicians at Cumberland Federal Correctional Institution, ("FCI-Cumberland") and that both the physicians and the Health Care Administrator, Dr. Mohamed Azam, at Elkton Federal Correctional Institution ("FCI-Elkton") were deliberately indifferent to his serious medical needs in violation of the Eighth Amendment.

Plaintiff's complaint was originally dismissed by this Court on October 12, 2005, for failing to comply with an order requiring him to either pay the filing fee in full or file a financial application and prisoner account statement. (Dkt. #s 3-4). On December 9, 2005, the Court reopened Plaintiff's case. (Dkt. # 8). On January 20, 2006, the Court ordered that this matter proceed on the Bivens claims only against Defendants Mohammed Azam ("Azam"), Ross Quinn ("Quinn"), and John Manenti ("Manenti"); and proceed on the FTCA claims against all Defendants. (Dkt. # 9). The case *sub judice* was referred to Magistrate Judge George J. Limbert for general pre-trial supervision, including all motions. (Dkt. # 10). On November 13, 2006, the Magistrate Judge issued a report recommending that the Court dismiss the Bivens claims against the Bureau of Prisons, and Azam, Quinn, and Manenti in their official capacities. (Dkt. # 30). That report also recommended that the Court substitute Defendant, the United States of America, ("USA") for Defendants Howard, Reynolds, Azam, Quinn, and Manenti for the FCTA claims. (Dkt. # 30). The Court adopted the Magistrate's report on December 8, 2006. (Dkt. # 33). A motion for summary judgment was filed on behalf of all the defendants on January 26, 2007. (Dkt. # 38).

On March 29, 2007, the Magistrate Judge issued a report recommending that the Court dismiss both Plaintiff's Bivens and FTCA causes of action. (Dkt. # 46). Specifically, the report recommends that the Court grant Defendants' motion for summary judgment and dismiss Plaintiff's complaint with prejudice against Defendants Azam, Manenti, and Quinn in their individual capacities and against Defendant USA. (Dkt. # 46). On April 24, 2007, Plaintiff filed objections to the Magistrate's report. (Dkt. # 48).

The Court has reviewed the report and recommendation of the Magistrate Judge, *de novo*. The Court finds that the report and recommendation (Dkt. # 46) is well-supported and that Plaintiff's objections are without merit. Therefore, the Magistrate Judge's report and recommendation is hereby **ADOPTED** and Plaintiff's objections are overruled.

Accordingly, the Court **GRANTS** Defendant's motion for summary judgment. (Dkt. # 38). Plaintiff's complaint is hereby **DISMISSED** with prejudice.

IT IS SO ORDERED.

/s/ Peter C. Economus - May 21, 2007
PETER C. ECONOMUS
UNITED STATES DISTRICT JUDGE